

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DEFENSE DISTRIBUTED and SECOND
AMENDMENT FOUNDATION, INC.,

Plaintiffs,

VS.

GURBIR S. GREWAL, in his official capacity
as New Jersey Attorney General, et al.

Defendants.

Case No. 1:18-CV-637

**DEFENDANT GURBIR S. GREWAL’S OPPOSED MOTION FOR EXTENSION OF
TIME TO FILE AN ANSWER**

Pursuant to Federal Rule of Civil Procedure 6(b), Defendant Gurbir S. Grewal, the Attorney General of New Jersey (“NJAG”) files this [Unopposed / Opposed] Motion for Extension of Time to Respond to Defense Distributed’s and Second Amendment Foundation, Inc.’s (collectively “Plaintiffs”) Second Amended Complaint and show as follows:

1. Plaintiffs commenced the instant action before this Court on July 29, 2018. (ECF No. 1)
2. Plaintiffs then filed their First Amended Complaint on September 17, 2018, raising claims against the NJAG based on a July 26, 2018 cease-and-desist letter that the NJAG sent to Defense Distributed. (ECF No. 23).
3. The NJAG then moved to dismiss Plaintiffs' First Amended Complaint for lack of jurisdiction on November 21, 2018. (ECF No. 57). This Court granted that motion in an opinion and order issued January 30, 2019. (ECF No. 100). Six days later, Plaintiffs filed suit against the

NJAG in the District of New Jersey asserting substantially the same claims as in this action. *See* Pls.’ Am. Compl., No. 3:19-cv-4753 (D.N.J. ECF No. 17); *Defense Distributed v. Att’y Gen. of N.J.*, 972 F.3d 193, 196-97 (3d Cir. Aug. 25, 2020).

4. Because Plaintiffs were pursuing the same claims against the NJAG in this forum and in the District of New Jersey, on March 7, 2019, the District of New Jersey stayed the New Jersey case pending resolution of this action. *See Defense Distributed v. Att’y Gen. of N.J.*, 972 F.3d at 197.

5. Plaintiffs also appealed this Court’s January 30, 2019 dismissal on jurisdictional grounds to the Fifth Circuit, which on August 19, 2020, reversed. *Defense Distributed v. Grewal* (“*Grewal*”), 971 F.3d 485 (5th Cir. Aug. 19, 2020). The mandate issued to this Court on September 11. *See* No. 19-50723, Doc. 00515561921.

6. On September 28, 2020, during a status conference set by this Court after remand, counsel for the NJAG made clear that the NJAG intended to file a motion to transfer venue from this district to the District of New Jersey. (ECF No. 116). Plaintiffs indicated they intended to amend their complaint, which should precede any further motion practice.

7. On November 10, 2020—two months after remand and after counsel for the NJAG announced the NJAG’s intent to file a motion to transfer venue—Plaintiffs filed a Second Amended Complaint, which for the first time named U.S. State Department officials as defendants.

8. The NJAG has now filed a Motion to Sever the U.S. State Department defendants and to Transfer Venue from this district to the District of New Jersey.

9. In light of the NJAG’s Motion to Sever and to Transfer Venue—which, if granted, would dispose of this case and moot the need for NJAG to file an answer and/or any additional motions to dismiss—the NJAG requests an extension of time to respond to Plaintiffs’ Second

Amended Complaint. Specifically, the NJAG respectfully requests an extension of time to respond until 30 days after this Court rules on the NJAG's Motion to Sever and to Transfer Venue, should this Court deny the NJAG's motion. In the alternative, the NJAG respectfully requests an extension of time to respond until January 19, 2021, which is the earliest date the U.S. State Department defendants would need to respond to Plaintiffs' Second Amended Complaint pursuant to Rule 12(a)(2) of the Federal Rules of Civil Procedure.

10. The parties have met and conferred in good faith, and Plaintiffs do/do not oppose the relief the NJAG has requested.

WHEREFORE, PREMISES CONSIDERED, the NJAG respectfully request that the Court grant its Motion for Extension of Time to File any responsive pleading to Plaintiffs' Second Amended Complaint.

DATED: November 19, 2020

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that counsel for the NJAG attempted to confer with Plaintiffs' counsel by phone and by email to discuss this motion, but hearing no response NJAG's counsel assumes that Plaintiffs are opposed.

/s/ Casey Low

Casey Low